

which these books along with the *Gayawali Gaddi* in question were claimed by the decree-holder as well as by the judgment-debtor. The decree-holder was not given the *bahis* and now he wants to seize the *bahis* in execution of his decree in order to deprive the judgment-debtor of his right of enjoying the benefit of the office by means of these books.

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PRASAD, J.

Agreeing with the views of the Court below, I dismiss the appeal with costs.

BUCKNILL, J.—I agree.

Appeal dismissed.

REVISIONAL CRIMINAL.

Before Mullick and Coutts, J. J.

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May, 2.

Code of Criminal Procedure, 1898 (Act V of 1898), sections 110 and 192(2)—Transfer of proceeding under section 110, validity of—Scope of section 192.

The word "case" in section 192 of the Code of Criminal Procedure, 1898, includes a proceeding under section 110 and therefore, such a proceeding may be transferred to another Magistrate by the Magistrate who has taken cognizance of the proceedings.

The words "receives information" in section 110 include information howsoever obtained. Therefore, where the police made a report to the Senior District Magistrate that certain persons were in the habit of committing mischief, extortion and other offences involving a breach of the peace, and that

* Criminal Revision No. 216 of 1922, against an order of H. Foster, Esq., Judicial Commissioner of Chota Nagpur, dated the 26th January, 1922, modifying an order of B. Bishundoo Narain Sinha, Deputy Magistrate of Palamau, dated the 28th November, 1921.

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Magistrate forwarded the report to another Magistrate of the first class, *held*, that the latter had jurisdiction to institute a proceeding under section 110 on the report.

The facts of the case material to this report are stated in the judgment of Courts, J.

K. N. Choudhury (with *Devaki Prasad Sinha*), for the petitioners.

H. L. Nandkeolyar (Assistant Government Advocate), for the Crown.

Courts, J.—This is an application made in revision against an order of the Judicial Commissioner of Chota Nagpur on the ground that the Magistrate who passed the order under section 110, Criminal Procedure Code, acted without jurisdiction. The facts of the case, so far as they are necessary for the disposal of this application, are that certain tenants of the petitioner, Hiranand Ojha, filed an application before the Commissioner of the Chota Nagpur Division while he was on a visit to Palamau, complaining about extortion and oppression alleged to have been committed by Hiranand Ojha. The Commissioner forwarded the application to the Deputy Commissioner of Palamau, who, in his turn, forwarded it to the Superintendent of Police for enquiry. Under the orders of the Superintendent of Police, the Inspector made an enquiry and submitted a report on the 2nd June, 1921, in which he stated that there was sufficient evidence against Hiranand Ojha and some of his servants for a proceeding under section 110, Criminal Procedure Code. This report was received by Mr. Chattarji, Senior Deputy Magistrate in charge, who forwarded it to another Deputy Magistrate, Babu Bishundeo Narain Sinha, with the following order :—

“To Babu Bishundeo Narain Sinha for disposal. He will please draw up proceedings and summon the accused for a date convenient for him.”

On receipt of this order Babu Bishundeo Narain Sinha directed that the case be put up on the following

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day. After going through the Inspector's report on the following day (14th June) he passed an order to the effect that he had read the report of the Inspector of Police, and from the report it appears that Hiranand Ojha and others were in the habit of committing mischief, extortion and other offences involving a breach of the peace. He finally passed an order directing that Hiranand Ojha, Dharam Deyal Missir and Maheswar Dubey should give security to be of good behaviour.

On a reference made to the Judicial Commissioner under section 123, Criminal Procedure Code, Dharam Deyal Missir was released altogether and the security which was demanded from the other two accused, who are the petitioners now before us, was reduced.

The contention of the petitioners now is that the order is without jurisdiction because the Senior Deputy Magistrate having taken cognizance of the case, he could not transfer it to Babu Bishundeo Narain Sinha. There are two points of view, either Mr. Chattarji took cognizance of the case or he did not. If he did take cognizance of the case he was empowered to transfer it under section 192(2), Criminal Procedure Code, to Babu Bishundeo Narain Sinha, who was also empowered under section 110, to dispose of the case. It has been contended by the learned Counsel for the petitioners that section 192(2) does not apply to proceedings under section 110, but he seems to be under some misapprehension as to the scope of section 192. Section 192 deals with the transfer of cases. A proceeding under section 110 is undoubtedly a case although the section does not deal with particular offences and the cognizance that is there taken is not cognizance of an offence but cognizance of a case. To say that section 192 does not apply to proceedings under section 110, is taking a very narrow view of the section which in my view is not authorized by the wording of that section. It has been held that section 192 applies to proceedings under section 145 and there is no reason why it should not also apply to proceedings under section 110.

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COTTES, J.

The other view is that Mr. Chattarji had not taken cognizance and it is suggested that he is the only Magistrate who could have done so under section 110. I am unable to accept this contention. Section 110, runs as follows:—

“Whenever a Presidency Magistrate, District Magistrate, or Sub-Divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government receives information that any person within the local limits of his jurisdiction is by such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.”

Now, it is not denied that Babu Bishundeo Narain Sinha is a first-class Magistrate specially empowered by the Local Government and it is also not denied that he in fact received the information; but it is contended that the information was sent to him through Mr. Chattarji, Senior Deputy Magistrate, and that, therefore, he could not take cognizance. The law in no way limits the method in which the Magistrate who is empowered by the Local Government is to receive the information, and even if the information is addressed to the Judicial Commissioner or to another Magistrate and is received by Babu Bishundeo Narain Sinha, there is nothing in the section which would preclude him from acting on the information so received. It may be that there are executive orders preventing any Magistrate, except the Deputy Commissioner from acting on information, but the section makes no such restriction, and this being so the action taken by the Deputy Magistrate in this particular case is certainly not without jurisdiction.

In the result then I see no reason to interfere and I would dismiss this application.

MULLICK, J.—I agree. In the absence of evidence to the contrary it must be assumed that Mr. Chattarji had power under section 192 to transfer the case to Babu Bishundeo Narain Sinha.

Rule discharged.